

ITASCA COUNTY DRUG AND ALCOHOL TESTING POLICY

Effective Date: November 1, 1991

A. **PURPOSE:**

The abuse of drugs and alcohol is a nationwide problem which affects persons of every age, race, ethnic and occupational group. The abuse of drugs and alcohol has a negative impact on employers and the provision of services. It poses an increased risk to the health and safety of employers, co-workers and the public.

Itasca County has established a prescription against the use and abuse of drugs and alcohol in the work place which conforms to the Drug-Free Workplace Act of 1988, 41 USCA. Furthermore, the Itasca County Recruitment policy establishes provisions for the testing of applicants and their ability to perform the duties of a position. In adopting this policy, the County is conforming to State law as set forth in Minnesota Statutes 181.950-181.997, which provides the frame work under which applicants and employees may be tested for the improper use of drugs and alcohol.

B. **Definitions:**

1. "Confirmatory Test, Confirmatory Retest" means a drug or alcohol test that uses a method of analysis approved by the Commissioner of Health under M.S. 181.953 subd. 1 as being reliable for providing specific data as to the drugs, alcohol, or their metabolites detected in an initial screening test.
2. "Drug" means a controlled substance as defined in Minnesota Statutes 152.01, subdivision 4.
3. "Drug and Alcohol Test", "Drug And Alcohol Testing", "Drug or Alcohol Testing", and "Drug and Alcohol Test" means analysis of a body component sample approved by the Commissioner of Health, including blood and urine, for the purpose of measuring the presence or absence of drugs, alcohol, or their metabolites in the sample tested.
4. "Employee" means a person, independent contractor, or person working for an independent contractor who performs services for compensation, in whatever form, for an employer.

ITASCA COUNTY DRUG AND ALCOHOL TESTING POLICY

5. "Employer" means a person or entity located or doing business in this state and having one or more employees, and includes the state and all political or other governmental subdivisions of the state.
6. "Safety-Sensitive Position" means a job, including any supervisory or management position, in which an impairment caused by drug or alcohol usage would threaten the health or safety of any person.
7. "Initial Screening Test" means a drug or alcohol test which uses a method of analysis approved by the Commissioner of Health under M.S. 181.653, subd. 1, as being capable of providing data as to general classes or drugs, alcohol, or their metabolites.
5. "Job Applicant" means a person, independent contractor or person working for an independent contractor who applies to become an employee of an employer, and includes a person who has received a job offer made contingent on the person passing drug or alcohol testing.
6. "Positive Test Result" means a finding of the presence of alcohol or drugs or their metabolites in the sample tested in levels at or above the threshold detection levels set by the Commissioner of Health under MS 181.953, subdivision 1.
7. "Reasonable Suspicion" means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.
8. "Valid Medical Reason" means 1) a written prescription, or an oral prescription reduced to writing, which satisfies the requisites of M.S. 152.11 and names the applicant/employee as the person for whose use it is intended and; 2) the drug was prescribed, administered, and dispensed in the course of professional practice by or under the direction and supervision of a licensed doctor, as described in M.S. 152.12 and; 3) the drug was used in accord with the terms of the prescription. Use of any over the counter medication in accord with the terms of the product's directions for use, shall also constitute a valid medical reason.

C. **Persons Subject to Testing**

All job applicants/employees are subject to testing under applicable sections of this policy. However, no person will be tested for drugs or alcohol under this policy without the persons consent. The appointing authority will request or require an individual to undergo

ITASCA COUNTY DRUG AND ALCOHOL TESTING POLICY

drug or alcohol testing only under the circumstances described in this policy.

When a job applicant/employee is requested to take a drug or alcohol test, the appointing authority shall first provide the individual the opportunity to read the Itasca County Drug and Alcohol Testing Policy. Following the individual's receipt of the policy, the appointing authority shall provide a form (see Exhibit 1) upon which the applicant or employee will acknowledge whether he/she is or is not willing to be tested for drugs and alcohol.

When an employee is requested to take a drug and/or alcohol test, he/she must bring a current and valid picture/photo identification OR a current and valid drivers license with them to the collection site.

When an employee is requested to take a drug and/or alcohol test, the collection site person shall ensure that the individual is positively identified as the employee selected for testing (e.g. through presentation of current and valid drivers license OR current and valid picture/photo identification OR identification by the employer's representative). If the individual's identity cannot be established, the collection site person shall not proceed with the collection until the following occurs:

- a. employee's supervisor would report to the site to property identify that employee: OR
- b. if the supervisor is not available, the County Highway Engineer or designated county representative would report to the site to property identify that employee.

If the employee who is requested to take a drug and/or alcohol test does not have his/her current and valid drivers license OR current and valid picture/photo identification with the at the time of testing, he/she shall be subject to discipline, as per contract language.

The employee or job applicant must be given written notice of the right to explain a positive test, and the employer may request that the employee or job applicant indicate any over-the-counter or prescription medication that the individual is currently taking or has recently taken and any other information relevant to the reliability of, or explanation for, a positive test result.

ITASCA COUNTY DRUG AND ALCOHOL TESTING POLICY

D. Reasonable Suspicion Testing

The appointing authority may request or require an employee to undergo drug and alcohol testing if the employer has a reasonable suspicion that the employee:

1. is under the influence of drugs or alcohol.
2. has violated the Drug-Free Workplace Policy (Appendix D, effective March 1, 1990) prohibiting the use, possession, sale, or transfer of drugs or alcohol while the employee is working or while the employee is on the employer's premises or operating the employer's vehicle, machinery, or equipment;
3. has sustained a personal injury, as that term is defined in section 176.011, subd. 16, or has caused another employee to sustain a personal injury, or
4. has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.

Whenever practical, the reasonable suspicions of the appointing authority shall be reviewed and confirmed by the Human Resources Director or his designee before requesting the employee to submit to drug or alcohol testing. The appointing authority shall promptly file a report with the Human Resources Director following the incident which shall document the specific facts supporting the decision to request or require the employee to submit to drug or alcohol testing.

E. Job Applicant Testing

All job applicants entering county service in safety-sensitive classes shall be requested to take a drug and alcohol test. Job applicants entering county service in non-safety sensitive classes may be requested to undergo a drug or alcohol test at the discretion of the appointing authority. Before a job applicant or final candidate can be requested to take the drug or alcohol test, he/she must be offered employment, conditionally based on passing the drug and alcohol test.

F. Refusal to Undergo Testing

1. Right to Refuse:

ITASCA COUNTY DRUG AND ALCOHOL TESTING POLICY

All job applicants/employees have the right to refuse to undergo drug and alcohol testing. Exhibit II, Employees, or Exhibit IV, Job Applicants, shall be used to document the decision to refuse testing.

If an employee refuses to undergo drug or alcohol testing requested or required by the appointing authority, no such test shall be given.

Attempts to delay the taking of the test, or failure to take the test at the appointed time and place designated by the appointing authority, may be considered a refusal to test.

An employee refusing to take a drug or alcohol test requested by the appointing authority will be considered insubordinate and subject to disciplinary action including possible dismissal. Any disciplinary action given pursuant to this section may be grieved under the grievance procedure in the collective bargaining agreement. Nothing herein shall alter, limit, affect or modify the rights of veterans, as conferred by M.S, 197.46.

A job applicant who refuses to take a drug or alcohol test shall be disqualified from further consideration for the conditionally offered position, and shall be notified in writing of the reasons thereof. (See Exhibit 7) Said test refusal shall not disqualify said individual from making subsequent application for employment with the employer, and said test refusal shall not be considered by the appointing authority in conjunction with such subsequent application.

G. **Testing**

1. Test Sample:

The test sample shall be obtained in a private setting and the procedures for taking the sample shall insure privacy to employees to the extent practical, consistent with preventing tampering of the sample, and shall conform with applicable rules of the Commissioner of Health. All test samples shall be obtained by or under the direct supervision of a health care professional from a facility chosen by the appointing authorities. However, the County may not use a facility that is owned and operated by the County.

2. Chain of Custody Requirements:

ITASCA COUNTY DRUG AND ALCOHOL TESTING POLICY

The Commissioner of Health has adopted rules governing chain of custody procedures to insure proper record keeping, identification, labeling and handling of samples being tested. The testing laboratory, the health care professional administering the test and the appointing authority shall be required to comply with these rules.

3. Laboratory Testing, Test Report and Sample Retention Requirements

The testing laboratory shall disclose to the appointing authority a written test report for each sample tested within three working days after a negative test result on an initial screening test. The laboratory shall conduct a confirmatory test on all samples producing a positive test result on an initial screening test. A laboratory shall retain and properly store for at least six months, all samples that produced a positive test result.

H. **Additional Rights of Employees and Job Applicants**

1. Within three working days after receipt of the test result report from the testing laboratory, the appointing authority shall inform in writing an employee or job applicant who has undergone drug or alcohol testing of: (see exhibits V & VI)
 - a. A negative test result on an initial screening test or of a negative or positive test result on a confirmatory test.
 - b. The right to request and receive from the appointing authority a copy of the test result report.
 - c. The right to request in writing within five working days after notice of a positive test result, a confirmatory retest of the original sample at the employee's/applicant's own expense, at the original testing laboratory or another licensed testing laboratory of the employees choice. If the confirmatory retest does not confirm the original positive test result, no adverse personal action based on the original confirmatory test may be taken against the employee or applicant.
 - d. The right to submit information to the appointing authority within three working days after notice of a positive test result to explain that result.
 - e. If an applicant has received a job offer made contingent on the

ITASCA COUNTY DRUG AND ALCOHOL TESTING POLICY

applicant passing drug and alcohol testing, the appointing authority may not withdraw the offer based upon a positive test result from an initial screening test that has not been verified by a confirmatory test.

I. Limitations on Employee Discharge, Discipline or Discrimination

1. The appointing authority will not discharge, discipline, discriminate against, or request or require rehabilitation of an employee on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test.
2. The appointing authority may temporarily suspend the tested employee or transfer that employee to another position at the same rate of pay pending the outcome of the confirmatory test, and if requested the confirmatory retest, provided the appointing authority believes that it is reasonably necessary to protect the health or safety of the employee, co-employees, or the public. An employee who has been suspended without pay must be reinstated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.
3. The appointing authority will not discharge an employee for whom a positive test result on a confirmatory test was the first such result for the employee on a drug or alcohol test requested unless the following conditions have been met.
 - a. The appointing authority has first given the employee an opportunity to participate in, at the employee's own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling program, whichever is more appropriate as determined by the employer, after consultations with a certified chemical use counselor or a physician trained in the diagnosis and treatment of chemical dependency, and
 - b. The employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program, as evidenced by withdrawal from the program before completion or by a positive test result on a confirmatory test after the completion of the program.
 - c. A determination by the certified chemical use counselor or physician trained in the diagnosis and treatment of chemical dependency that no counseling or rehabilitation program is necessary, fulfills the employees above specified obligation.

ITASCA COUNTY DRUG AND ALCOHOL TESTING POLICY

- d. The appointing authority will not discharge, discipline, discriminate against, or request or require rehabilitation of an employee on the basis of medical history information revealed to the appointing authority pursuant to Section C of this policy, unless the employee was under an affirmative duty to provide the information before, upon, or after hire.
- e. An employee must be given access to information in the employee's personnel file relating to positive test results, reports and other information acquired in the drug and alcohol testing process and conclusions drawn from and action taken based on the reports or other acquired information.
- f. Nothing in this policy limits the rights of the appointing authority to discipline or discharge an employee on grounds other than a positive test result in a confirmatory test.

J. Data Privacy

1. The purpose of collecting a body component sample of blood, breath or urine is to test that sample for the presence of drugs or alcohol. A sample provided for drug or alcohol testing will not be tested for any other purpose. The name, initials and date of birth of the person providing the sample are requested so that the sample can be identified accurately, but confidentially. Information about medications and other information relevant to the reliability of, or explanation for, a positive test result is requested to ensure that the test is reliable and to determine whether there is a valid medical reason for any drugs or alcohol in the sample. All data collected, including that in the notification form and the test report, is intended for use in determining the suitability of the employee or applicant for employment. The employee or applicant may refuse to supply the requested data, however, refusal to supply the requested data may affect the person's employment status.

The appointing authority will not disclose the test result reports and other information acquired in the drug or alcohol testing process to another employer or to a third party individual, government agency, or private organization without the written consent of the person tested, unless permitted by law as outlined in M. S. 181.954, subdivision 3 or consent order. All data on the request for a test, the testing, the test results, shall be kept separate from the regular personnel files, in locked cabinets, accessible only by those supervisors, managers, or confidential

ITASCA COUNTY DRUG AND ALCOHOL TESTING POLICY

employers directly involved in the case.

I:\USERS\CHR\wpdata\Itcopol new\drugandalcohol w-o intervention process.doc

11/01/96

06/18/98

ITASCA COUNTY DRUG AND ALCOHOL TESTING POLICY

EXHIBIT I

EMPLOYEE DRUG AND ALCOHOL EXAM CONSENT FORM

EMPLOYEE NAME _____ DATE OF BIRTH ____/____/____

DATE _____ TIME _____ AM/PM

NAME OF SUPERVISOR/AGENT REQUESTING EXAM

NAME OF APPOINTING AUTHORITY/DESIGNEE AUTHORIZING TESTING

MEDICAL CONSENT:

I consent to an examination and the collection of blood, urine and other body component samples appropriate for drug and alcohol testing by _____ and the release of the test results by _____ as requested by (Appointing Authority) to determine the presence of alcohol and/or drugs or their metabolites, if any, in the sample tested.

AUTHORIZATION TO RELEASE INFORMATION:

I authorize the testing facility, to release any and all medical information obtained during this exam and testing procedure related directly to the testing of drugs, or alcohol in accordance to this policy, to the (Appointing Authority).

ACKNOWLEDGMENT:

1. I acknowledge that I was given and/or have seen Itasca County's Drug and Alcohol Testing in the Workplace Policy.
2. I acknowledge that the results of this Drug and Alcohol Testing may affect my employment status as stated in the policy.
3. I am currently taking or have recently *(within the last month) taken the following over-the-counter or prescription medications (if none, write "none").

ITASCA COUNTY DRUG AND ALCOHOL TESTING POLICY

Other information relevant to the reliability of, or explanation for, a positive test result (if none, so state).

Employee's Signature

Witnessed By:

Dated _____

Dated _____

ITASCA COUNTY DRUG AND ALCOHOL TESTING POLICY

EXHIBIT II

EMPLOYEE DRUG AND ALCOHOL TEST REFUSAL

EMPLOYEE NAME _____ DATE OF BIRTH ____/____/____

DATE _____ TIME _____ AM/PM

NAME OF SUPERVISOR/AGENT REQUESTING EXAM _____

NAME OF APPOINTING AUTHORITY/DESIGNEE AUTHORIZING TESTING _____

ACKNOWLEDGMENTS:

1. I acknowledge that I was given an/or have seen Itasca County's Drug and Alcohol Testing in the Workplace Policy.
2. I acknowledge that I have the right to refuse to undergo drug and alcohol testing.
3. I understand that my refusal to permit drug and alcohol testing will affect my employment status as stated in the Policy.
4. I acknowledge that if I refuse to undergo drug and alcohol testing that has been requested, no such test shall be given.
5. I further understand that if I were to consent to such drug and alcohol testing that I would have the opportunity to indicate any over-the-counter or prescription medications that I currently am taking or have taken recently and any other information relative to the reliability of, or explanation for, a positive test result.

REFUSAL

It is my considered decision to refuse to undergo drug and alcohol testing.

Employee's Signature:

Witnessed By:

Dated _____

Dated _____

ITASCA COUNTY DRUG AND ALCOHOL TESTING POLICY

EXHIBIT III

JOB APPLICANT DRUG AND ALCOHOL TEST CONSENT FORM

EMPLOYEE NAME _____ DATE OF BIRTH ____/____/____

DATE _____ TIME _____ AM/PM

NAME OF SUPERVISOR/AGENT REQUESTING EXAM _____

NAME OF APPOINTING AUTHORITY/DESIGNEE AUTHORIZING TESTING _____

ACKNOWLEDGES

- 1. I acknowledge that I was given an/or have seen Itasca County's Drug and Alcohol Testing in the Workplace Policy.
- 2. I have been offered employment for the position of _____ which offer is contingent upon my passing drug and alcohol testing.
- 3. I understand and acknowledge that the results of this drug and alcohol testing may result in the withdrawal of said offer of employment.

MEDICAL CONSENT:

I consent to an examination and the collection of blood, urine and other body component samples appropriate for drug and alcohol testing by _____ and the release of the test results by _____ as requested by (Appointing Authority) to determine the presence of alcohol and/or drugs or their metabolites, if any, in the sample tested.

AUTHORIZATION TO RELEASE INFORMATION:

I authorize the testing facility, to release any and all medical information obtained during this exam and testing procedure related directly to the testing of drugs or alcohol in accordance to this policy, to the (Appointing Authority).

CURRENT MEDICATIONS

I am currently taking or have recently (within the last month) taken the following over-the-counter or prescription medications (if none, write "none").

Other information relevant to the reliability of, or explanation for, a positive test result (if none, so state).

Job Applicant Signature: _____

Witnessed By: _____

Dated _____

Dated _____

ITASCA COUNTY DRUG AND ALCOHOL TESTING POLICY

EXHIBIT IV

JOB APPLICANT REFUSAL TO TEST

JOB APPLICANT NAME _____ DATE OF BIRTH ___/___/___/

DATE _____ TIME _____ AM/PM

NAME OF SUPERVISOR/AGENT REQUESTING EXAM

NAME OF APPOINTING AUTHORITY/DESIGNEE AUTHORIZING TESTING

ACKNOWLEDGES

1. I acknowledge that I was given an/or have seen Itasca County's Drug and Alcohol Testing in the Workplace Policy.
2. I have been offered employment for the position of _____ which offer is contingent upon my passing drug and alcohol testing.
3. I understand that I have the right to refuse to undergo such drug and alcohol testing and, if I so refuse, said offer of employment shall be withdrawn.
4. I understand that if I were to consent to such drug and alcohol testing that I would have the opportunity to indicate any over-the-counter or prescription medications that I am currently taking, or have recently taken, and any other information relevant to the reliability of, or explanation for, a positive test result.

REFUSAL:

It is my considered decision to refuse to undergo drug and alcohol testing.

Job Applicant Signature:

Witnessed By:

Dated _____

Dated _____

ITASCA COUNTY DRUG AND ALCOHOL TESTING POLICY

EXHIBIT V

EMPLOYEE NOTICE OF TEST RESULTS

TO: _____, Employee. DATE: _____

The County has received the results of the chemical test of the sample collected from you on _____. The result is _____. The lab report is attached.

The result of the initial screening test is _____.

The result of the Confirmatory Test is _____.

In case of a positive test result, you may:

Within three (3) days of this notice submit to me at _____ any information you may have to explain the test result, in addition to the information previously submitted.

Within five (5) days of this notice request in writing to the undersigned a confirmatory retest of the original sample at your own expense. If you wish a different licensed laboratory to perform a retest, you must include that information in your request.

NOTICE OF ADDITIONAL RIGHTS:

1. You are notified that you may not be discharged, disciplined, discriminated against or be requested or required to undergo rehabilitation on the basis of a positive test result from an initial screening test that has not been verified by a confirmatory test.
2. Notwithstanding paragraph #1, you are notified that where the initial screening test is positive you may be temporarily suspended or transferred to another position (the latter at the same rate of pay) pending the outcome of the confirmatory test and, if requested, the confirmatory retest, in the event that your employer believes it is reasonably necessary to protect the health or safety of yourself, co-employees or public. However, in the event you are suspended without pay, you will be re-instated with back pay if the outcome of the confirmatory test or requested confirmatory retest is negative.
3. You are further notified that you may not be discharged on the basis of a positive test result on a confirmatory test which was the first such result for yourself on a drug or alcohol test requested by the employer

ITASCA COUNTY DRUG AND ALCOHOL TESTING POLICY

(continued) **EXHIBIT V**

(Itasca County) provided that the following conditions are met.

EMPLOYEE NOTICE OF TEST RESULTS

- A. You have been first given the opportunity to participate in, at your own expense or pursuant to coverage under an employee benefit plan, either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the employer after consultation with a certified chemical use counselor or a physician trained in the diagnosis and treatment of chemical dependency; and
- B. You have either refused to participate in said counseling or rehabilitation program or have failed to successfully complete said program as evidenced by withdrawal from the program before its completion, or by a positive test result on a confirmatory test after completion of said program.
- 4. You are further notified that any confirmatory retest must use the same drug or alcohol threshold detection levels as used in the original confirmatory test.
- 5. If the confirmatory retest does not confirm the original positive test, no adverse personnel action based on the original confirmatory test may be taken against you.
- 6. You are further informed that you may not be discharged, disciplined, discriminated against or requested or required to undergo rehabilitation on the basis of medical history information revealed in the drug and alcohol testing process unless you were under an affirmative duty to provide said information before, upon or after being hired.
- 7. You are entitled to access to information in your personnel file relating to positive test result reports and other information acquired in the drug and alcohol testing process and conclusions drawn from and actions taken based on said reports or other acquired information.

SIGNATURE _____
EMPLOYER'S REPRESENTATIVE

ADDRESS: _____

ITASCA COUNTY DRUG AND ALCOHOL TESTING POLICY

EXHIBIT VI

JOB APPLICANT'S NOTICE OF TEST RESULTS

TO: _____, Job Applicant.

DATE: _____

The County has received the results of the chemical test of the sample collected from you on _____. The result is _____. The lab report is attached.

The result of the initial screening test is _____.

The result of the confirmatory Test is _____.

In case of a positive test result, you may:

Within three (3) days of this notice submit to me at _____ any information you may have to explain the test result, in addition to the information previously submitted.

Within five (5) days of this notice request in writing to the undersigned a confirmatory retest of the original sample at your own expense. If you wish a different licensed laboratory to perform a retest, you must include that information in your request.

NOTICE OF ADDITIONAL RIGHTS:

1. The job offer made to you may not be withdrawn on the basis of a positive test result from an initial screening test which has not been verified by a confirmatory test.
2. Should you request confirmatory retesting, said retesting must use the same drug or alcohol threshold detection levels used in the original confirmatory test.
3. You are further notified that if the confirmatory retest does not confirm the original positive test result, no adverse action may be taken against you based on the original confirmatory test.

SIGNATURE _____

EMPLOYER'S REPRESENTATIVE

ADDRESS: _____

ITASCA COUNTY DRUG AND ALCOHOL TESTING POLICY

EXHIBIT VII

NOTICE OF WITHDRAWAL OF JOB OFFER

TO: _____, Job Applicant.

This is to notify you that the job offer previously made to you for the position of _____ is hereby withdrawn.

The reason for this action is designated below:

_____ The confirmatory drug and alcohol test was positive, and the time within which to request confirmatory retesting has expired. See Notice of Test Results dated: _____.

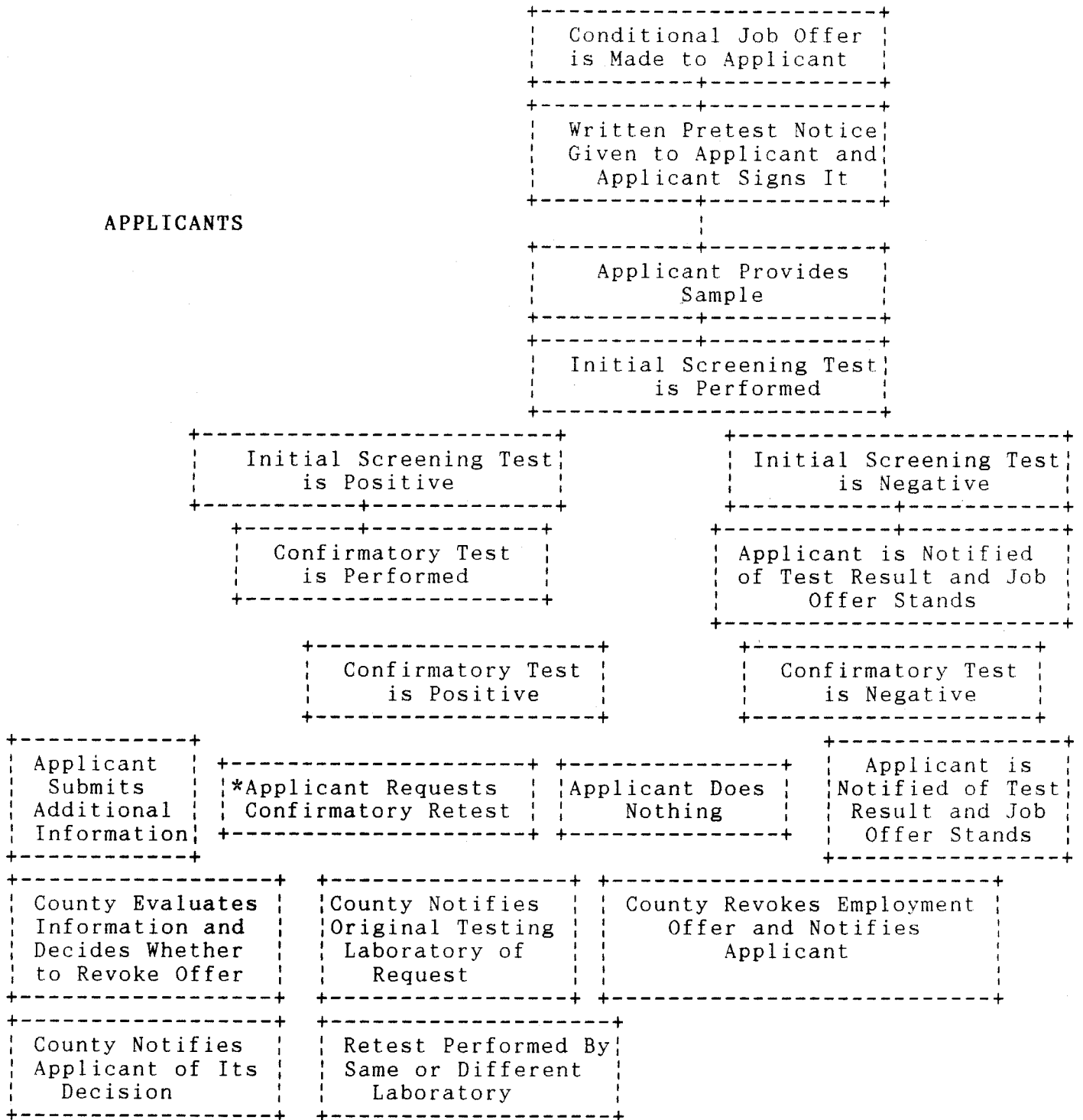
_____ The drug and alcohol confirmatory retest was also positive. See Notice of Test Results dated: _____, copy attached.

Sincerely yours,

Employer's Representative

DRUG/ALCOHOL INTERVENTION PROCESS

APPLICANTS



Laboratory Notifies County
of Result of Confirmatory
Retest

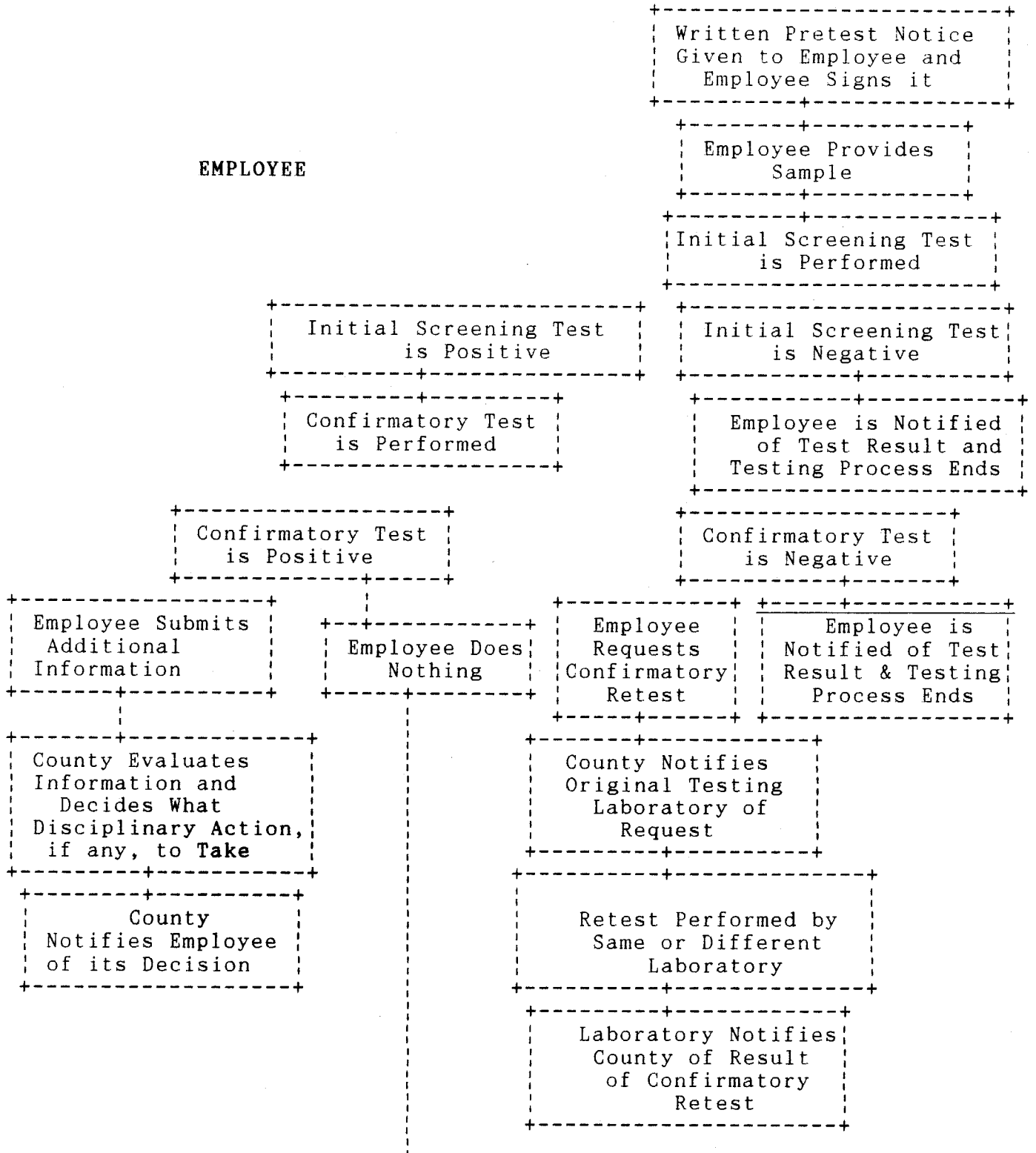
Result of Retest
is Positive

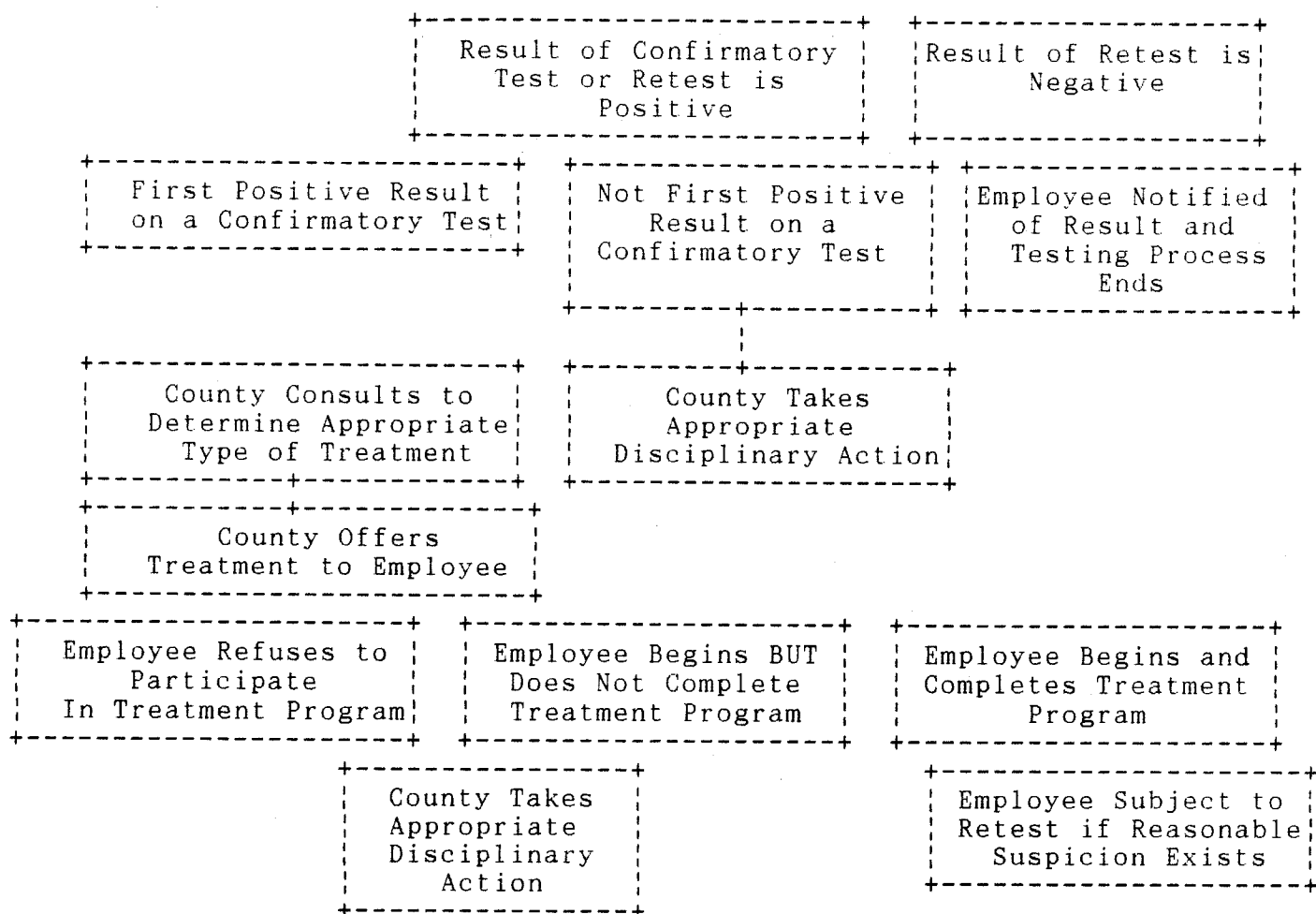
Result of Retest
is Negative

County Revokes
Employment Offer and
Notifies Applicant of
its Decision and
Retest Result

Applicant is Notified
of Result and
Job Offer Stands

EMPLOYEE





h:\users\chr-lkf\wdata\itco.policy\emprel.1\drugand

11/01/96